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September 11, 2002

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Richard C. Karl, Chief  
Emergency Response Branch  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Re: Milwaukee Solvay Coke & Gas Site;  
311 East Greenfield Avenue, Milwaukee, Wisconsin

Dear Mr. Karl:

Our firm represents Cliffs Mining Company ("Cliffs") in connection with environmental issues arising at the former Milwaukee Solvay Coke plant site in Milwaukee (the "Site"). We are responding to the General Notice of Potential Liability (the "Notice") contained in your letter dated August 26, 2002.

Your letter was addressed to Cliffs and to Wisconsin Wrecking Company as "potentially responsible parties" who might be liable under CERCLA for reimbursement of costs incurred by the United States Environmental Protection Agency ("EPA") to conduct certain removal activities on the Site. The proposed removal actions are in response to the results of a site investigation conducted by EPA's contractor, Tetra Tech EM Inc., during December 10-19, 2001, the results of which were described in the Site Assessment Report dated May 1, 2002 (the "Assessment Report"). Twelve separate elements, identified by the letters a through l, are listed in your Notice as the components of the removal actions.

Cliffs is interested in discussing with EPA a voluntary consent order whereby Cliffs would finance certain of the response activities, which would be conducted by a site manager selected by Cliffs, and reimburse EPA for its oversight costs related to those activities. However, based upon prior conversations with Craig Melodia, EPA's counsel, we understood that the work to be performed at this time is intended to remedy those conditions at the Site

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which present an imminent threat to human health or the environment, as identified in the Assessment Report. These conditions can be summarily described as asbestos-containing materials (ACM) in buildings or other structures, the contents of various tanks, piping and other structures above-ground, and a pit area which appears to be part of a former tank or container. The description of elements of the work in your letter appear to extend beyond those tasks in certain respects, which we wish to clarify.

Furthermore, Cliffs does not concede by this letter, nor will it concede by any consent order for this work, that it is a potentially responsible party within the meaning of CERCLA, or is liable under any other law, for removal, remediation, or response costs related to any hazardous substances located in the soil or groundwater on the Site or in sediments under the Kinnickinnic River. Cliffs does not believe it is the current owner of the Site, and its willingness to consider agreeing to a consent order is based upon a desire to resolve certain legal issues with the current occupant of the Site and to facilitate a prompt and efficient removal and disposal of the above-ground hazardous substances identified in the Assessment Report, thereby also fostering a potential early return of some or all of the Site to productive use.

We recognize that the language in the Notice describing the elements of the work to be performed will not necessarily be identical with the language negotiated in the consent order. Nonetheless, to avoid any inference of acquiescence in, or agreement with, the items listed in your letter, we make the following clarifications and modifications to some of those items.

- |         |  |
|---------|--|
| Item c. | The Site is heavily fenced and gated, and accordingly Cliffs does not believe that the site would require security guards.   |
| Item d. | The identification, sampling and characterization contemplated for this work is limited to the ACM, free standing tanks and related pipes, and the substances in the pit area. This work does not include, to Cliffs understanding, additional general investigative sampling across the Site. |
| Item f. | The removal and disposal of coal tar residue will be limited to the contents of tanks and related pipes above-ground plus the pit area.  |
| Item g. | Demolition and removal of tanks and related pipes which are in contact with, and have been contaminated by, hazardous substances will be included. Demolition of other structures will not be part of the EPA consent order.   |

- Item h. The work will include removal of surface soils visually contaminated as a result of other removal and demolition activities being performed under the consent order. Cliffs does not understand this phase of work to encompass widespread excavation of surface soils where spills may have historically occurred. With the exception of the pit area, Cliffs commitment would include only above-ground structures and hazardous materials contained therein, unless releases occur during the removal of those above- ground structures and contents.
- Item i. The "pit area" will need to be defined in the consent order.
- Item j. Cliffs will not commit to remove all hazardous materials onsite to the extent such hazardous materials are contained in the soil, groundwater or sediments of the Kinnickinnic River, with the exception of soils included in the "pit area" to be defined in the consent order.

These individualized comments reflect Cliffs' overall understanding based on prior communications with EPA that the Site will be approached in phases, with the first phase to be limited to the above-ground structures and contents plus the pit area. If any additional investigative or remedial actions are deemed to be necessary by EPA, those actions will be the subject of future negotiations and would be expected to involve a much larger array of potentially responsible parties than the two who have been identified in the August 26<sup>th</sup> Notice. Cliffs will not acknowledge or accept any responsibility for such additional actions as part of a consent order for the initial phase.

With the clarifications and caveats expressed above, Cliffs looks forward to discussing the terms of a consent order with the staff at Region 5.

Sincerely,



Dennis L. Fisher

cc: James Trethewey  
Jack Lenhard  
David Crouch